

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 16, 2022

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

CASE 22-M-0314 - Proceeding to Review Utilities' Diversity,
Equity, and Inclusion Practices.

ORDER INITIATING PROCEEDING

(Issued and Effective June 16, 2022)

BY THE COMMISSION:

INTRODUCTION

By this Order, the Commission initiates a proceeding to examine the diversity, equity, and inclusion efforts of the major New York State electric, gas, and water utilities. The Commission directs utilities with 100 or more employees in their New York operations to develop diversity, equity, and inclusion (DEI) plans. The subject utilities include Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; The Brooklyn Union Gas d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Central Hudson Gas & Electric Corporation; National Fuel Gas Distribution Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; New York State Electric & Gas Corporation; Liberty Utilities (New York Water) Corp.; and

Veolia Water New York, Inc. The Commission directs Department of Public Service Staff (Staff or the Department) to host a working group to facilitate sharing current efforts, goals, and best practices between the subject utilities to aid in the development of the plans. The Commission also directs Staff to engage an independent third-party consultant to assist Staff in assessing the utilities' DEI plans as well as assist the working group in its efforts.

LEGAL AUTHORITY

Pursuant to Public Service Law §§5, 65, 66, 89-b, and 89-c, the Commission has general legal authority over electric, gas, and water-works corporations to ensure that they provide safe and adequate service at just and reasonable rates.

DISCUSSION AND CONCLUSION

The Commission recognizes the many benefits of a diverse workforce on a utility's operations. Intuitively, a workforce that - like the utility's service territory - includes, but is not limited to, individuals with differing races, ethnicities, national origins, physical abilities, sexual orientations, and genders will help to ensure that the utility can draw upon a large pool of ideas and experiences to address operational and customer needs. In addition, a diverse workforce helps businesses become more agile and stay resilient, and an inclusive workplace improves employee morale, engagement, and retention. Diversity can also enhance recruiting and advancement activities. Companies that utilize diverse interview panels combined with diversity and inclusion training for interviewers can reduce implicit biases and ensure the company hires and promotes the most qualified candidates. Absent consideration of diversity and inclusion, hiring and

recruitment would be stunted by shallower candidate pools, resulting in missed opportunities to improve utility management. Further, a diverse workforce that reflects the utility's service territory helps ensure customer outreach and messaging efforts will reach those who need the information most. Utility messaging is critical to the success of programs directed toward low- to moderate-income customers. Thus, it is clear that utilities' DEI practices affect the provision of utility services.

In recognition of these benefits, companies often take specific actions to ensure that they recruit and retain a diverse workforce. These actions can include corporate policies, designated diversity officers, training programs, recruitment efforts, community outreach, or similar steps that actively promote diversity and inclusion in hiring, promotion, and contracting efforts. To promote inclusiveness for employees, many companies further establish non-discrimination policies, offer support services, or take similar actions.

In recent years, New York's utilities have been developing DEI strategies. Similarly, the Department recently developed a Diversity and Inclusion Strategic Plan, which it submitted to the New York State Office of Diversity and Inclusion Management on May 2, 2022.

To enhance utilities' existing efforts and ensure that the utilities have the opportunity to learn from their counterparts and stakeholder input, the Commission initiates this proceeding. The Commission hereby directs all electric, gas, and water utilities with 100 or more employees in their New York operations to develop DEI plans outlining their current DEI efforts. In addition, the DEI plans should outline utilities' current plans to improve these efforts, specify targets for the evolution of their efforts, and provide an approximate timeline

for achieving those goals. The subject utilities are encouraged to engage in robust outreach to stakeholders while developing the DEI plans. The subject utilities shall describe their outreach to stakeholders in their DEI plans.

Utility DEI plans should identify corporate strategies and communication training, including but not limited to consultant-led efforts to inform DEI strategies, specific DEI roles added to the organization, as well as employee outreach efforts. Utility DEI plans should identify training efforts to educate employees throughout the organization, including but not limited to formal training programs, periodic employee training sessions offered, and available employee resources (e.g., online databases and learning portals). Utility DEI plans should detail recruitment and retention activities to improve workforce diversity and inclusion. Examples include, but are not limited to, leadership development and mentorship programs, revisions to job postings and organization titles, technological resources used to compare resumes to job postings or identify organizational gaps, diverse interview panels, specific outreach efforts to colleges and community organizations, attention to employee benefits, and the use of DEI metrics. Utility DEI plans should outline community outreach and engagement efforts, including but not limited to partnerships or employee involvement with external organizations, work with elected officials, as well as social media, mass email, and standard mail efforts. Utility DEI plans should identify supplier diversity procurement strategies, including but not limited to formal supplier diversity programs, partnerships with external organizations, mentorship of suppliers, as well as communication efforts with potential vendors. Utility DEI plans should include any other DEI efforts not covered above.

To aid in the development of the DEI plans, the Department will organize a working group for all subject utilities, commencing by the end of 2022. The Department will facilitate working group discussions, which will allow each utility to share its draft DEI plan and for the group to identify best practices. These discussions will cover the aforementioned topics and any additional areas identified by the subject utilities. The Department's Human Resources Management Section will participate in these discussions. The utilities are also encouraged to engage in one-on-one discussions to learn more about their peers' strategies. Smaller utilities are encouraged to participate in the working group, as well as the Long Island Power Authority (LIPA), New York Power Authority (NYPA), and New York State Energy Research and Development Authority (NYSERDA). While the requirement to file DEI plans does not apply to LIPA, NYPA, or NYSERDA, the Commission anticipates these organizations will continue to progress in these areas and welcomes their participation in the working group.

Only utilities, LIPA, NYPA, NYSERDA, and Staff will participate in the working group. This will provide participants with the opportunity to freely discuss their efforts in developing the DEI plans, best practices, and challenges. Ultimately, the working group meetings provide the participants with opportunities to explore improvements to the draft DEI plans.

The Commission directs the Department to engage an independent third-party consultant with DEI expertise to assess the utilities' DEI plans and assist the working group effort. The consultant will work at the direction of the Department. We expect the consultant will assist the Department in evaluating the utilities' draft DEI plans to ensure the utilities' proposed

efforts, goals, and timelines are properly focused, achievable, and will have a meaningful effect on utility operations. The consultant will also participate in the working group discussions to assist the Department and participants with identifying industry and non-industry best practices that will benefit the utilities. We expect that the Department will facilitate the working group in general. Staff will work with the subject utilities, additional working group participants, and the selected consultant to encourage a productive process.

The Commission finds that the consultant selection process will generally be similar to the hiring of a consultant for operations or management audits. The process will begin with Staff issuing a request for proposals, followed by a review of bidders and interviews. Staff will base its selection on a weighting of proposals, including the expertise of consultant staff, interviews, and costs. While the consultant will work at the direction of Staff, the costs will be paid by the utilities this Order requires to develop DEI plans. Costs associated with the consultant can be deferred with recovery addressed in future rate cases. Unlike the process for management and operations audits, the Commission will not separately approve the consultant selection.

The Commission directs the subject utilities to file DEI plans after the conclusion of the working group meetings. In consultation with the utilities, the Department will establish a deadline for such filings following the initial working group meeting. The DEI plans will include updates on each utility's efforts, future DEI targets and timelines for achievement, and the incorporation of best practices discussed in the working group and between utilities. Stakeholders will be afforded the opportunity to comment on DEI plans before the Commission considers the DEI plans.

The Commission orders:

1. A proceeding is instituted to examine the diversity, equity, and inclusion efforts of electric, gas, and water utilities with 100 or more employees in their New York operations.

2. Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; The Brooklyn Union Gas d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Central Hudson Gas & Electric Corporation; National Fuel Gas Distribution Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; New York State Electric & Gas Corporation; Liberty Utilities (New York Water) Corp.; and Veolia Water New York, Inc. are directed to develop and file diversity, equity, and inclusion plans consistent with the discussion in this Order.

3. Department of Public Service Staff is directed to host a working group to facilitate sharing information and best practices between the utilities consistent with the discussion in this Order.

4. Department of Public Service Staff is directed to issue a Request for Proposals and select an independent third-party consultant to assess utility diversity, equity, and inclusion plans and assist the working group discussions consistent with the discussion in this Order.

5. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary